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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,745	02/13/2001	Pierre van der Bruggen	LUD-5531.1 DIV	7125

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EXAMINER

DIBRINO, MARIANNE NMN

ART UNIT	PAPER NUMBER
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1644

DATE MAILED: 08/09/2002

13

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/782,745

Applicant(s)

Van Der Bruggen et al.

Examiner

Marianne DiBrino

Art Unit

1644

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 5/8/01 and 2/13/01
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.
- ### Disposition of Claims
- 4) ☒ Claim(s) 32-40 is/are pending in the application
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32 and 34-40 is/are rejected.
- 7) ☒ Claim(s) 33 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirements

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Applicant's amendments filed 5/8/01 and 2/13/01 are acknowledged and have been entered in part. Applicant's responses filed 5/22/02 and 5/8/01 are acknowledged and have been entered.

With regard to the said amendments filed 5/8/01 and 2/13/01 the direction to amend figures 3, 4, 5 and 8 and figure 8, respectively, "as indicated in the attachment" was not entered because no attachments were received. With regard to the said amendment filed 2/13/01, the direction to amend page 4, page 5, page 7, page 10, page 12, the first change to page 16, page 20, page 26 and page 33 have not been entered because the text indicated do not appear at their stated locations.

2. Applicant's election with traverse of Group I (claims 32-40), the isolated nucleic acid molecule (SEQ ID NO: 14) encoding GAGE-2 protein (SEQ ID NO: 27) and the species of HLA molecule HLA-Cw6 in Applicant's response filed 5/22/03 is acknowledged.

The traversal is on the ground that GAGE-2 and GAGE-6 are closely related, classification is the same for each sequence and that there is no evidence to support non co-extensive searches. Applicant's argument has been considered, but is not deemed persuasive because the isolated nucleic acid molecules encoding GAGE-2 and GAGE-6 are different nucleic acid molecules and entail separate sequence searches in nucleic acid databases.

Claims 32-40 are pending and are being acted upon presently as they pertain to GAGE-2 and HLA-Cw6.

**The requirement is still deemed proper and is therefore made FINAL.**

Accordingly, Applicant is requested to amend the instant claims to delete the SEQ ID NO pertaining to non-elected Groups II-V, i.e., SEQ ID NO 28-31 and SEQ ID NO: 15-18.

3. It is noted that this application claims subject matter disclosed in prior copending Application No. 09/012,818. The reference to the said prior application was inserted incorrectly on line 2, whereas it should have been inserted on line 1.

4. Applicant is required to amend the specification to list the appropriate SEQ ID NOS for sequences disclosed in the specification (for example, in the Brief Description of the Drawings for Figures 3, 4, 5 and 8). See 37 C.F.R. 1.821(d).

5. The disclosure is objected to because of the following informalities:

- a. The Brief Description of the Drawings should be amended from "Figure 1" to --Figure 1 A-D--, "Figure 4" to --Figure 4A-D--.
- b. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code on page 26 at line 2. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.
- c. The limitation "promoter" is misspelled in line two of claim 34 on page 2 of the amendment filed 5/8/01.
- d. The word "An" should be inserted at the beginning of claims 34, 35 and 36 on page 2 of the amendment filed 5/8/01.
- e. The word "A" should be inserted at the beginning of claim 39 on page 2 of the amendment filed 5/8/01.

Appropriate corrections are required.

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 32 and 34-40 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. This is a new matter rejection.

The amendatory material not supported by the specification and claims as originally filed is: "An isolated nucleic acid molecule which encodes a GAGE tumor rejection antigen precursor, the amino acid sequence of which is set forth in SEQ ID NO: 27, 28, 29, 30 or 31" recited in base claim 32. The specification and claims as originally filed do not support the the said isolated nucleic acid molecule that is not one of SEQ ID NO: 14, 15, 16, 17 or 18.

8. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware of in the specification.

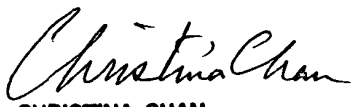
9. SEQ ID NO: 27 and SEQ ID NO: 14 appear to be free of the prior art.

10. Claim 33 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and if the limitations pertaining to non-elected groups, i.e., "SEQ ID NO: 15, 16, 17 or 18" are deleted.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marianne DiBrino whose telephone number is (703) 308-0061. The examiner can normally be reached Monday through Friday from 8:30 am to 6:00 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 305-3014.

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August 1, 2002

  
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